



COMMUNITY DEVELOPMENT DEPARTMENT

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PLANNING COMMISSION MEETING MINUTES

REGULAR MEETING

APRIL 26, 2011

PRESENT: Mueller, Moniz, Tanda, Koepp-Baker, Benich

ABSENT: None

LATE: None

STAFF: City Attorney (CA) Danny Wan, Assistant City Manager (ACM) Leslie Little, Planning Manager (PM) Rowe, Senior Planner (SP) Linder, Deputy Public Works Director (DPWD) Bjarke, Senior Civil Engineer (SCE) Behzad, Senior Civil Engineer (SCE) Creer, Development Services Technician (DST) Bassett

Chair Mueller called the meeting to order at 7:01 p.m., inviting all present to join in reciting the pledge of allegiance to the U.S. flag.

DECLARATION OF POSTING OF AGENDA

Development Services Technician Bassett certified that the meeting's agenda was duly noticed and posted in accordance with Government Code Section 54954.2.

OPPORTUNITY FOR PUBLIC COMMENT

Chair Mueller opened, and then closed, the floor to public comment for matters not appearing on the agenda as none were in attendance indicating a wish to address such matters.

MINUTES:

February 22, 2011 COMMISSIONERS MONIZ AND KOEPP-BAKER MOTIONED TO APPROVE THE FEBRUARY 22, 2011 MINUTES:

THE MOTION PASSED (5-0-0-0) WITH THE FOLLOWING VOTE: AYES: UNANIMOUS; NOES: NONE; ABSTAIN: NONE; ABSENT: NONE.

March 8, 2011 COMMISSIONERS MONIZ AND KOEPP-BAKER MOTIONED TO APPROVE THE MARCH 8, 2011 MINUTES:

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THE MOTION PASSED (4-0-1-0) WITH THE FOLLOWING VOTE:

AYES: BENICH, MONIZ, KOEPP-BAKER AND TANDA;

NOES: NONE;

ABSTAIN: MUELLER;

ABSENT: NONE.

**ORDERS OF
THE DAY**

Item K was moved forward to be heard before the other projects in Agenda Item 3.

CONSENT:

**1) MEASURE C,
MC-09-02: EAST
DUNNE-
MENDOZA:**

**COMMISSIONERS KOEPP-BAKER AND BENICH MOTIONED TO
APPROVE THE CONSENT CALENDAR.**

**THE MOTION PASSED (5-0-0-0) WITH THE FOLLOWING VOTE: AYES:
UNANIMOUS; NOES: NONE; ABSTAIN: NONE; ABSENT: NONE.**

**2) FY2011/12-
2015/16 CIP
DISCUSSION OF
PROPOSED
PROJECTS**

Behzad presented her staff report.

Tanda: With respect to the award and acceptance, am I correct in assuming that a project may have been completed and is operational before the acceptance date?

Behzad: Correct, sometimes when we announce the substantial completion date it is two or three months before the actual acceptance date.

Tanda: But the substantial completion date isn't a column that appears on this table?

Behzad: That is correct. So maybe we could add that column.

Tanda: Is there somewhere that shows hard costs, soft costs and then total costs?

Behzad: We do monitor all those costs throughout the project. Are you looking for that to be somewhere on the table?

Tanda: I think one successful measure of a project is if the product is finished on time and is within budget. If that kind of information could be provided, that would be good information and very important.

Behzad: When it says "within budget" that means total budget, including award amount. But we would have to have a discussion internally to see if there's an extra column we could include in the table so that you could have the bigger picture showing soft costs and construction costs.

Tanda: I have two questions regarding the report from Scott Creer. 1) On the pavement rehab, how much does it really cost the City at the conclusion of five

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years to make up the difference of \$22 million?

Creer: I wish I had an answer to that question. The PMP does not give us those answers. The longer you delay your pavement rehab work, the more it costs. Nothing is static in pavement. It is always degrading.

Tanda: On the street light conversion, what is the payoff period for the higher cost LEDs?

Creer: Based on the numbers we're seeing from PG&E, it is about a ten or 11 year payback. But the technology is getting better and cheaper, so it could be less than that.

Tanda: Is the life expectancy at least 10 or 11 years?

Creer: That's what they're projecting, but what we're being given is a 5-year warranty.

Behzad: There are six categories we are budgeting for over the next five years. For fiscal year 2011/12 the totals are: Park Facilities = \$6,439,000; Public Facilities = \$70,000; Sanitary Sewer = \$3,429,000; Storm Drain = \$3,265,000, Streets & Roads = \$15,300,000; and Water = \$1,305,000. The total is about \$30,000,000. Over the next five years the total = \$111,790,000.

Parks

Mueller: It is a given that we don't agree on the amount of public parks, so you don't have to answer to this, but the City considers recreational facilities in the park acreage. But the intent of the General Plan was pure parks.

Behzad: That is true.

Public Facilities

It will be necessary to seek voter approval by Nov. 2014 to move ahead with the second phase of the Development Services Center and to update the Council Chambers. The total is about \$4.5 million.

Tanda: Is the Geo bond that is the active source of funding for this project based on voter approval?

Behzad: Yes.

Tanda: Are there any other projects in the CIP where the funding is this uncertain?

Behzad: I don't know of any like this, but there are projects in the future where we will have to sell bonds, or projects where we are trying to qualify for grants. But all of the projects for 2011/12 have secured funding. Part of the package that we're putting together includes a list of projects that we would like and that are needed, but for which there isn't enough funding.

Sanitary Sewer

Behzad: It came to our attention that the General Plan is going to be updated in 2012/13. So we moved the updating of the Utility Master Plans out from 2011/12 to 2013/14 to follow completion of General Plan update.

Mueller: Historically, it has taken almost three years to get through the General Plan update process.

Behzad: So you're saying we're going to have to revisit this item?

Mueller: That's correct.

Rowe: We will be starting to update the General Plan in FY 2011/12.

Tanda: It is critical to get the sewer plan improvement project done so that the city can continue to grow. What is the likelihood of being able to fund that project?

Little: Those bonds are actually part of the previous \$110 million dollar bond that was sold a few years ago. So those revenues are already here.

Benich: Regarding the sewer plan improvement, the population estimate on page 28 only shows the population to grow by 6000 over the period from 2020 to 2030. But that might be low because we're adding houses at a rate faster than 200 per year.

Behzad: We can revisit that.

Storm Drainage

Mueller: A lot of time and money has gone into the planning of the W. Little Llagas Creek expansion. If the feds say that they don't have the money to support it, what do we do? We need to develop a Plan B so that we have a way to move forward, just in case.

Bjarke: We have been considering a Plan B. We could start construction on the lower reaches in 2014. The section in Morgan Hill would be awarded in late 2015. But we are funded to get the design and the EIR complete.

Tanda: You say that work would begin on this in 2015? So wouldn't we want show that in this five-year CIP?

Bjarke: As planned, the construction is fully funded by the Corps of Engineers, so it wouldn't show up on our CIP budget.

Benich: Regarding the Butterfield Detention Basin, there was only \$75,000 allotted for this detention basin, which seems awfully low.

Behzad: We just went out for bid for the Butterfield South extension and the

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detention basin last week, which is why it isn't shown here. The 75K is only for administrative costs, because that's all that will be occurring during the first year.

Streets and Roads

Mueller: Is the Main Avenue pathway included in the RDSCS category?

Creer: Yes, and that will be done by KB Home as part of the Sherimar project.

Mueller: When will signalization at Spring Avenue begin?

Behzad: That has gone out to bid and will probably begin construction in about a month.

Mueller: What about the sidewalk on Monterey by the post office?

Creer: That will be handled separately from the Spring Avenue/Monterey Rd signalization project.

Tanda: When did you say the construction will begin on the Butterfield South extension?

Behzad: The design has been completed and we had a successful bid opening, but we haven't been able to acquire all the right-of-way for this project. Currently, it's scheduled for Fall of 2011, so approximately October.

Tanda: So this table doesn't show any funding for that project in 2011/12. Is that because it's a carryover from 2010/11.

Behzad: That is correct because the funding is secured right now.

Tanda: What about the downtown parking, is that funding secured already also?

Behzad: Yes.

Mueller: Regarding the Tennant 101 widening, can you explain why there appear to be different numbers in different sections of the report..

Behzad: We provided two tables. One shows the award and acceptance of CIP projects, the other shows multi-year projects. One table shows just one phase of the project; while the multi-year table is a bigger number because it includes all costs. That's why you see different figures.

Moniz: On the East Dunne widening, are the tree removal and demo of the house included in the costs?

Rowe: The house removal is not.

Behzad: But the tree removal is.

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Water

Benich: There is \$120K budgeted for architecture and design for recoating the existing tanks. That seems excessive.

Behzad: That category is a general category and it includes architectural and engineering services. The \$120,000 is budgeted over the next five years so you're looking at \$40,000 every-other year. The first \$40,000 is for retaining a consultant to help develop a bid package and for an engineer to do an analysis.

Benich: That just seems excessive for choosing paint colors.

Bjarke: That fee is for recoating the *inside* of the tanks, so it includes divers to do studies, etc.

Moniz: Does the General Plan direct you to do that every-other year, or is that your own standard.

Behzad: It depends on our budget and based on the availability of funds.

Moniz: What if you conduct a study and there isn't a need to recoat?

Behzad: Then we could postpone and look at applying the funds to another project.

Mueller: There is an interesting issue in the paper today showing that water conservation means less water being used so fewer water fees being collected. How do you lower your operating costs to plan ahead for the expense of the system with less money coming in?

Bjarke: That is a good question because the infrastructure still requires the same amount of maintenance.

Mueller: If it costs a certain amount to operate the system and we're taking in less money than before due to conservation, can we look at the system and replace certain items with less expensive ones in order to save on operating costs? That's something we should be looking at now.

Benich: One thing I keep bringing up, but nothing has been done yet, is that gray water is a very important thing we could utilize to save water. I don't see any money budgeted for that in this plan. It seems Public Works is not interested.

Bjarke: It's not that we're not interested. The SCVWD has a plan that we're participating in.

Benich: That's not enough. We need to be doing something in our own city.

Behzad: This concludes our presentation of the CIP. We are asking the Planning Commission to adopt the Resolution and find the proposed CIP consistent with the General Plan.

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Mueller: What about the General Plan requirement that's part of the new Circulation Element that requires a projects list?

Behzad: Map 4, which is basically the roadway improvements, contains is a list of the projects that are being prioritized to be completed by 2014.

Benich: What happens if the Redevelopment Agency (RDA) is dissolved? Will we have the money to back these projects?

Little: We did sell bonds of about \$110,000 million a few years ago. We have about \$53 million left. We have a contract with our bond holders. We feel that since the citizens bought the bonds, they should receive something for their investment. So we hope that also helps protect the funds. And we did go out to bid on several projects recently and awarded contract in an attempt to protect that money.

COMMISSIONERS TANDA AND BENICH MOTIONED TO APPROVE THE CIP PLAN FOR FISCAL YEARS 2011/12-2015/16 AS PROPOSED, WITH AN AMENDMENT TO INCLUDE A STUDY FOR GRAY WATER

Benich: I agree. I wasn't sure I could support the motion, but with that amendment I now feel I can.

Mueller: I have some concerns trying to put something in there when there has been resistance from the water district in the past.

Benich: It's just a study.

THE MOTION PASSED (5-0-0-0) WITH THE FOLLOWING VOTE: AYES: UNANIMOUS; NOES: NONE; ABSTAIN: NONE; ABSENT: NONE.

Mueller called for a break at 8:10 and reconvened at 8:17.

PUBLIC HEARINGS:

Linder presented her staff report. Of the 18 projects with allocations expiring on June 30, 2011, 15 are applying for extensions. The three that aren't are Diana-EAH, Depot-Granary and E. Third-Glenrock. These three are all in the downtown area and can get allocations in the future under Measure A. Three other projects have gone before the Planning Commission already. Projects that have met steps 1-6 as established by City Council, are being recommended for extensions.

Mueller: One project [W. Dunne-SVD] went straight to City Council for an extension. At that time the Council asked them to commit to specific steps and corresponding deadlines, since the project had not yet achieved Step 6 in accordance with the policy established. We need to look at these projects with the same discrimination and conditions.

Wan: The Council did do that, but the Council also found that the project did have

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an extenuating circumstance to justify the extension, and the project has to agree to the extra conditions as imposed by Council.

k)ELBA-11-02:
COCHRANE-
BORELLO:

Linder: This project is also known as San Sebastian. They are still in the process of getting planning approvals. This project has a CEQA to complete that will take another 6-8 months. The applicant has requested a 24-month extension. If you believe there are unique circumstances, and would like to recommend an extension, you would look to Resolution K-1. If not, you would look to K-2.

Wan: CEQA *does* qualify as a circumstance out of the developer's control.

Mueller opened the floor to public hearing.

Chris Borello appeared on behalf of the project. On April 8th, results of the air quality study came in below the threshold. We were waiting for the results to see which direction we would take regarding the CEQA. It was either going to be a full blown environmental report or an initial study. The proposal has been forwarded to the Planning staff, and we are now waiting to get their recommendation. We anticipate having all our revised documentation for ZA, SD and tentative map ready to submit to the City by July 1, 2011. We have secured pre-construction financing. We are committed to the project and need the extension to keep moving forward.

Benich: None of the other projects have asked for 24 months. Why do you need that much?

Borello: These houses are much bigger than most. We know that this will require a longer absorption period to sell the units. Also, we don't want to have to come back and ask for another extension because we weren't able to commence on all the allocations. We feel confident we will be able to commence on some of them, though.

Mueller: When do you think you'll be able to file your planning applications?

Linder: They've already submitted their tentative map and their planning applications. Right now, they're looking to change some policies in a future agenda to do the entire 244 lots on one tentative map.

Mueller: I would like a plan for the next steps.

Borello: July 1 is our target date for submitting the tentative map, the PUD and the zoning amendment.

Mueller: When do you think you'll be able to pull the first building permits?

Borello: June 2012.

Michael Fletcher appeared on behalf of the project. We really started working on this project in October 2010. We have redone the site. We have developed a phasing plan. We have completed our floor plans and our elevations, and even the plans for the recreation facility. We are working full time, full speed. We are over

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the shock of the economic recession and are ready to move forward.

Mueller closed the public hearing.

Mueller: I recommend that we should note what they've filed for and set a date for the payment of the CEQA document. We could set a date of June 30, 2011, to submit the revised applications, and pull the first nine building permits by June 30, 2012. I think the uniqueness of this project is that it was completely redesigned and it is a large project with many stumbling blocks such as zoning and environmental issues.

COMMISSIONERS MONIZ AND KOEPP-BAKER MOTIONED TO APPROVE THE 24-MONTH EXTENSION WITH REQUIREMENTS TO SUBMIT REVISED APPLICATIONS BY JUNE 30, 2011 AND TO PULL THE FIRST NINE BUILDING PERMITS BY JUNE 30, 2012.

Tanda: What happens if they do not pull nine building permits by June 30, 2011?

Mueller: They have to come back in and discuss it with us.

**THE MOTION PASSED (5-0-0-0) WITH THE FOLLOWING VOTE:
AYES: UNANIMOUS; NOES: NONE; ABSTAIN: NONE; ABSENT: NONE.**

**3a) DAA-04-05D:
BARRETT-
VILLAS OF SAN
MARCOS**

Linder presented her report: 18 units have already been built. The project picked up 5 additional allocations in the 2010 RDSCS competition. Applicant is requesting a 12-month extension. They have progressed to step six.

Mueller opened and closed the floor to public hearing.

Mueller: Do we have any idea when he will be ready to pull the first units? It would be nice if the developer were here to answer for the project.

Linder: They are doing rough grading right now and have already gone through plan check, so I believe they're ready to go anytime.

COMMISSIONERS BENICH AND MONIZ MOTIONED TO INCORPORATE 5 NEW ALLOCATIONS INTO THE DEVELOPMENT AGREEMENT AND TO APPROVE THE 12-MONTH EXTENSION CONTINGENT ON PULLING 5 PERMITS FOR FISCAL YEAR 2007/08 BY JUNE 30, 2011

**THE MOTION PASSED (5-0-0-0) WITH THE FOLLOWING VOTE:
AYES: UNANIMOUS; NOES: NONE; ABSTAIN: NONE; ABSENT: NONE.**

**b) DAA-04-09F:
EAST DUNNE-
UCP-JASPER
PARK:**

Linder presented her report and stated that the project has only progressed through four of the steps outlined by City Council. They did get approval to amend the zoning to R1-4,500 in January; however, they haven't submitted for site approval.

Mueller opened the floor to public comment.

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Michael Cady of UCP appeared: We have submitted improvement plans and final map to Public Works.

Linder: We are missing the Master Plan that needs to be submitted to the Building Division.

Mueller: When do you anticipate submitting that?

Cady: The FAR issue took longer than anticipated and I don't want to make commitments that I can't keep, so August 1 at the soonest.

Mueller: So you're committing to August 1, 2011 for construction drawings?

Linder: The site review process takes at least six weeks. That's for just one round of review. So I don't think Aug. 1 will be possible.

Moniz: If it takes more than one round, that only leaves 90 days for your architects to finish construction documents.

Mueller: What is a date you can meet?

Linder: I would suggest six months. So we could establish Master Plan to be submitted by Dec. 22, 2011, Plan Check approval by April 15, 2012, permits issued by May 30, 2012, and commencement of construction by June 30, 2012.

Mueller closed the floor to public comment.

COMMISSIONERS KOEPP-BAKER AND MONIZ MOTIONED TO APPROVE THE 12-MONTH EXTENSION CONTINGENT ON SUBMITTING THE MASTER PLAN BY DEC. 2011, OBTAINING MASTER PLAN APPROVAL BY APRIL 15, 2012, GETTING PERMITS ISSUED BY MAY 30, 2012 AND COMMENCING CONSTRUCTION BY JUNE 30, 2012

**THE MOTION PASSED (5-0-0-0) WITH THE FOLLOWING VOTE:
AYES: UNANIMOUS; NOES: NONE; ABSTAIN: NONE; ABSENT: NONE.**

**c)DAA-05-01G:
MISSION VIEW-
MISSION
RANCH:**

Linder presented her report and stated that this project recently pulled all 17 permits of the 2007/08 allocations, but the bank will only allow them to build 10, so they have applied for an extension. They are at steps 7 and 8.

Mueller opened and closed the floor to public comment.

COMMISSIONERS MONIZ AND TANDA MOTIONED TO APPROVE THE EXTENSION TO JUNE 30, 2012, AND INCORPORATE THE 15 ALLOCATIONS FOR FY 2011/12 AND 7 ALLOCATIONS FOR FY 2012/13 INTO THE DEVELOPMENT AGREEMENT

**THE MOTION PASSED (5-0-0-0) WITH THE FOLLOWING VOTE:
AYES: UNANIMOUS; NOES: NONE; ABSTAIN: NONE; ABSENT: NONE.**

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d)DAA-05-09E:
DEL MONTE-
GIOVANNI:

Linder presented her report: This project was at a step 6 but the Master Plan expired due to the code cycles changing, so they are back to step 4. They are asking for a 12 month extension to commence construction.

Mueller: How long is a master plan good for?

Bassett: Until the code cycles change. Codes are updated every three years. The most recent code cycle is dated 2010. This project's plans referenced outdated codes, so they expired and need to be resubmitted to meet current codes.

Mueller: Have they resubmitted for Master Plan Check?

Linder: Not that I'm aware of.

Moniz: I'd like to hear from Public Works. Can you respond to their letter?

Creer: The issues regarding plan check did cause some delays but they have been resolved for a couple of years now. We had a water main that went through the mini storage that fronts on Monterey Road. That became a problem because they wanted to install detention pipes and that would have required the existing water main to be lowered to an unacceptable depth.

Moniz: Has the Final Map been recorded?

Creer: It has been approved, but not recorded.

Moniz: Does Final Map approval ever expire?

Creer: It does, but I would need Danny Wan to answer some of the technical questions about that.

Mueller opened the floor to public comment.

Dan Gluhaich appeared on behalf of the project: We were rushing to submit the plans before the deadline of June 30, 2011, but our planner, Rebecca Tolentino, suggested that we ask for an extension. That is why we are here tonight. We will probably be submitting for plan check within the next two weeks—at least by the end of May. Our Final Map is ready to record. We had a previous developer that we were working with, but that agreement fell through due to his inability to obtain financing. We have now partnered with another developer who is self-financed. We are working with designer Gary Moore to submit new plans.

Linder: So we will establish deadlines of submitting the Master Plan by May 30, 2011, obtaining approval of plans by July 30, 2010, recording Final Map by August 30, 2011, pulling three permits by Sept 15, 2011 and commencing construction on all six units by June 30, 2012.

Mueller: So the extenuating circumstance is that they lost their developer.

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Tanda: Do you think that these dates will work for your partner?

Gluhaich: Yes, I think so. I'm more concerned with getting plans approved by that date.

Mueller closed the floor to public comment.

COMMISSIONERS BENICH AND MONIZ MOTIONED TO APPROVE THE 12-MONTH EXTENSION DUE TO THE EXTENUATING CIRCUMSTANCE OF LOSING THE ORIGINAL BUILDER AND CONTINGENT UPON MEETING THE FOLLOWING DEADLINES: SUBMIT MASTER PLAN BY MAY 30, 2011, APPROVAL OF PLANS BY JULY 30, 2011, RECORD FINAL MAP BY AUG. 30, 2011, OBTAIN 3 PERMITS BY SEP. 30, 2011, AND COMMENCE CONSTRUCTION ON ALL SIX UNITS BY JUNE 30, 2012.

**THE MOTION PASSED (5-0-0-0) WITH THE FOLLOWING VOTE:
AYES: UNANIMOUS; NOES: NONE; ABSTAIN: NONE; ABSENT: NONE.**

**e)DAA-05-10E:
BARRETT-
SYNCON:**

Linder presented her report: The project is already partially built, but is not currently building due to an argument as to who owns the project Development Agreement. There are two actions we can take. We can table the item, or we can give the applicant the 30-day extension he is requesting. Tonight, we can extend the allocations with an ELBA, and then have a development agreement amendment continued to the June 14, 2011 Planning Commission agenda.

Moniz: The applicant is the owner of the property?

Linder: That's what they say.

Tanda: Why wouldn't we just continue the whole thing for 30 days?

Linder: We wouldn't have enough time for it to be heard by Council, so their allocations would expire. That's why we need two separate actions.

Mueller opened the floor to public comment.

Randy Toch, attorney for the applicant, appeared: I'm here to explain about the confusion with the project. A portion of the project was sold. The development agreement was never transferred by the original seller. So now we have a situation where the first phase is under different ownership than the later phases. We are trying to hammer out the details on how to deal with the Development Agreement. The letter we received at 3:30 p.m. today is the first time we have seen anything from the owner of Phase 1. It is in everybody's best interest to extend the allocations. It is out of our hands to be able to act on the Development Agreement right now.

Tanda: So what is the relevancy of the Development Agreement of Phase 1?

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Linder: That is what the attorneys have to sort out. We don't have to deal with that tonight.

Donnie Hanly appeared on behalf of the applicant: What is it that you want from us?

Mueller: We want some dates; we need you to commit. We need to know that you're ready to move forward. Is the plan check complete?

Hanly: Yes, but we would like to reserve the right to make some changes.

Mueller: No, if your Master Plan Check is not complete, then you're not at step 6, you're back at step 4. You need to commit to some dates before the commencement of construction. What can you do by June 30th of this year?

Hanly: We do not have financing in place, so we cannot pull permits by June 30, 2011. We have been working with Terry [Linder] and Danny [Wan] for almost a year, trying to work out the situation of two owners with only one development agreement and the first owner is protesting the development of the next two phases. We are trying to figure out how to address that.

Moniz: Could they begin building now?

Linder: Their Master Plan is still good. If they record the map they have, they could move forward right away.

Mueller: But without a Development Agreement, probably no bank will touch this.

Wan: What we need to determine today is whether the developer has shown a good faith effort to proceed. Aside from the difficulty to obtain financing, are they sincere in getting the other steps done? This project has proceeded through step 6, so no extenuating circumstance needs to be found.

Toch: The fact is that the applicant owns the land. If nothing else, a new Development Agreement will be submitted that will look very much like the old one.

Mueller: So if you're going to build what you have now, we don't have to find an extenuating circumstance. We can approve the resolution granting the ELBA and a resolution to continue the Development Agreement.

Mueller closed the public hearing.

COMMISSIONERS KOEPP-BAKER AND TANDA MOTIONED TO APPROVE THE EXCEPTION TO LOSS OF BUILDING ALLOCATIONS

**THE MOTION PASSED (5-0-0-0) WITH THE FOLLOWING VOTE:
AYES: UNANIMOUS; NOES: NONE; ABSTAIN: NONE; ABSENT: NONE.**

COMMISSIONERS KOEPP-BAKER AND TANDA MOTIONED TO

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CONTINUE THE DEVELOPMENT AGREEMENT UNTIL JUNE 14, 2011

**THE MOTION PASSED (5-0-0-0) WITH THE FOLLOWING AYES:
UNANIMOUS; NOES: NONE; ABSTAIN: NONE; ABSENT: NONE.**

Commissioner Moniz recused himself at 9:50 pm.

**f)DAA-06-02E:
SAN PEDRO-
ALCINI:**

Linder presented her report: The applicant is requesting a 27-month extension.

Mueller opened the floor to public hearing.

Paul Schuyler, co-applicant appeared: Our developer walked away from the project in January 2010. We partnered with a second developer in July 2010 and they just backed out about a week ago. The good news is that we plan to have the final map approved within the next 60 days.

Mueller: When do you plan to submit for Master Plan check?

Schuyler: We hope to submit plans by March 2012. That gives us eight months to get the drawings together and four months to get them approved.

Koepp-Baker: Do you have a builder?

Schuyler: Not at this time. We hope to partner up with a builder soon.

Richard Alcini, owner, appeared: We do have the drawings that Dahlin Group prepared for the Site Review but we don't have construction drawings. We had a second developer that we had partnered with in April 2010, but they also just walked away from the project about a week ago.

Mueller: So you've lost two developers?

Alcini: Yes.

Mueller: We need some dates set that you can commit to.

Schuyler: We have submitted for Final Map. We hope to get Final Map approval by July 1, 2011, submit for Master Plan check by March 1, 2012, Master Plan approval by June 30, 2012, building permits issued by Sept. 1, 2012.

Mueller: That's a long way off. Do you have financing?

Schuyler: No.

Benich: How many extensions have been granted so far?

Linder: Extensions of 36 months have been granted to date.

Alcini: The developer we were most recently working with was actually trying to flip the project, which would have artificially inflated the price. That tied us up for

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a year. We are trying to partner directly with a real developer now.

Mueller: So what dates can we set?

Schuyler: So I think we could set Final Map approval for July 1, 2011, submit for Master Plan check by March 1, 2012, Master Plan approval by July 1, 2012, and building permits issued by Sept. 1, 2012

Mueller closed the public hearing.

Benich: I would be willing to give them one more shot. Then if they can't get it together, we rescind the allocations.

Koepp-Baker: I would recommend that we give them until June 30, 2011 to show some activity during this fiscal year.

Tanda: So they would have to get Final Map approval by the end of this fiscal year? Doesn't that require City Council action?

Linder: We would need to check with Scott Creer to see if it is possible to get that scheduled.

Wan: You're saying if the applicant fails to meet any of these dates, these allocations would immediately expire?

Mueller: We would have to schedule an agenda item to revoke.

Koepp-Baker: So we're amending the Development Agreement?

Mueller: We're not amending the Development Agreement. That would be too cumbersome to put these dates into the Development Agreement.

Linder: We're recommending these as performance dates. We're holding them to tighter deadlines by putting the performance dates on the attachment. The intent of Council by requiring an applicant to be through step six, was to make sure that a project had done everything it could do, short of obtaining financing. If not, what is the extenuating circumstance?

Mueller: Scott, can we record the Final Map by July 1?

Creer: It can certainly go to Council in time to do that.

Tanda: I would like to give them another chance. So I think we have all agreed on a schedule of Final Map approval by June 30, 2011, Master Plan check submitted by March 1, 2012, Master Plan approval by June 30, 2012, and obtain building permits by Dec. 1, 2012.

Mueller: When would they commence construction?

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Linder: If their plan check is complete June 30, 2012, why can't they obtain permits by July 2012?

Mueller: So you think they should commence construction by December 1, 2012?

Linder: That should be more than enough, because that would basically be granting an 18 month extension.

Mueller: So the date to pull building permits would be Sep. 1, 2012?

Linder: That would give them three months to commence.

COMMISSIONERS KOEPP-BAKER AND BENICH MOTIONED TO APPROVE THE DEVELOPMENT AGREEMENT AMENDMENT DUE TO THE CIRCUMSTANCE THAT TWO DEVELOPERS HAVE WALKED AWAY FROM THE PROJECT AND SUBJECT TO THE FOLLOWING DEADLINES: FINAL MAP APPROVAL BY JUNE 30, 2011, MASTER PLAN CHECK SUBMITTED BY MARCH 1, 2012, MASTER PLAN APPROVAL BY JUNE 30, 2012, OBTAIN BUILDING PERMITS BY SEP. 1, 2012 AND COMMENCE CONSTRUCTION BY DEC. 1, 2012.

**THE MOTION PASSED (4-0-1-0) WITH THE FOLLOWING VOTE:
AYES: UNANIMOUS; NOES: NONE; ABSTAIN: MONIZ; ABSENT: NONE.**

Mueller called for a break at 10:25 and reconvened at 10:32.

Commissioner Moniz came back on the floor.

g)DAA-06-04C:
DIANA-KB
HOME:

Linder presented her report. This project has done everything they can do, including getting more allotments in the last RDCS competition. The map is ready to get recorded.

Mueller opened the public hearing.

Talli Robinson of KB Home appeared: We are ready to go as soon as the grading is approved.

Linder: The signed mylars are on my desk.

Bassett: The master plan check is approved.

Mueller: Do you pull permits in groups?

Robinson: Ideally, we get the buyer into contract. They choose their options and then we pull permits.

Mueller: So you could be pulling permits every couple of days?

Robinson: That is correct.

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COMMISSIONERS MONIZ AND TANDA MOTIONED TO APPROVE THE DEVELOPMENT AGREEMENT AMENDMENT WITH A 6-MONTH EXTENSION AND TO INCORPORATE THE 31 ALLOCATIONS AWARDED FOR FY 2012/13 INTO THE DEVELOPMENT AGREEMENT.

**THE MOTION PASSED (5-0-0-0) WITH THE FOLLOWING VOTE:
AYES: UNANIMOUS; NOES: NONE; ABSTAIN: NONE; ABSENT: NONE.**

**h)DAA-06-05B: E.
MAIN-AHLIN:**

Linder presented her report. This action would be to incorporate into the Development Agreement Amendment the units that were extended by an ELBA last year and to extend the 2008/09 and 2009/10 allocations for 24 months. This project is at step 7.

Mueller opened and closed the public hearing.

Linder: The units due to commence construction on June 30, 2012, were granted the extension last year. If we didn't grant an extension, we'd end up with all of these expiring at the same time.

Mueller: As it is, we have almost 50 expiring in 2013. We need to hold the builder to pull the 15 units in 2011 that he committed to in his letter.

Linder: So we would show 15 units to be pulled by Dec. 2011.

Moniz: The winter would make it hard to commence, so we could give them until April 30, 2012 to commence construction. One minor addition would also be to abate the weeds on the site.

COMMISSIONERS MONIZ AND BENICH MOTIONED TO APPROVE THE EXTENSION REQUESTED IN THE DEVELOPMENT AGREEMENT AMENDMENT SUBJECT TO THE FOLLOWING DATES: OBTAIN PERMITS ON 15 UNITS BY DEC. 2011 AND COMMENCE CONSTRUCTION ON 15 UNITS BY APRIL 30, 2012 AND TO ABATE THE WEEDS ON THE SITE.

**THE MOTION PASSED (5-0-0-0) WITH THE FOLLOWING VOTE:
AYES: UNANIMOUS; NOES: NONE; ABSTAIN: NONE; ABSENT: NONE.**

**i)DAA-09-01:
MCLAUGHLIN-
MALECH:**

Linder presented her report and stated that this project is at step 6 and this is their first request for an extension.

Mueller: What does he mean by the subdivision improvement?

Linder: I think he means the bonds for the Final Map.

Mueller: So if he's at that point, why does he need a year?

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Mueller opened and closed the public hearing, as the applicant was not in attendance.

Linder: I'm not sure. He makes reference to a merger with two commercial properties on Monterey Road.

Mueller: Could we hold this for two weeks and then make a motion?

Linder: No, it wouldn't make it to Council on time.

Mueller: Is this their first extension?

Linder: Yes.

COMMISSIONERS MONIZ AND TANDA MOTIONED TO APPROVE THE DEVELOPMENT AGREEMENT AMENDMENT WITH A 12-MONTH EXTENSION AND TO INCORPORATE THE PARAGRAPH 18 LANGUAGE INTO THE DEVELOPMENT AGREEMENT

**THE MOTION PASSED (5-0-0-0) WITH THE FOLLOWING VOTE:
AYES: UNANIMOUS; NOES: NONE; ABSTAIN: NONE; ABSENT: NONE.**

**j) DAA-09-03:
MURPHY-KB
HOME:**

Linder presented her report and stated that KB Home just purchased the property in January 2011 and have already moved through step 5.

Mueller: How many projects have moved through step five in this short amount of time?

Linder: Not very many.

Mueller opened the floor to public comment.

Mueller: When do you think you can get the permits for the models issued?

Robinson: I'm thinking that there is going to need to be some reworking of the Site Review due to some height issues. So we would probably need 8 weeks to resubmit for Master Plan check. We would like to get it done as soon as possible because we'd like to keep it on track with our Sherimar project.

Mueller: So the extenuating circumstance is that the project has a new builder and the project has moved so quickly.

Moniz: I suggest we stop setting dates at step 7, and only require a Master Plan submittal of June 30, 2011 and Master Plan check complete by August 30, 2011.

COMMISSIONERS TANDA AND KOEPP-BAKER MOTIONED TO APPROVE THE EXCEPTION TO LOSS OF BUILDING ALLOCATIONS WITH A 12 MONTH EXTENSION OF TIME SUBJECT TO RESUBMITTING FOR MASTER PLAN CHECK BY JUNE 30, 2011 AND

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OBTAINING MASTER PLAN CHECK APPROVAL BY AUG. 30, 2011.

THE MOTION PASSED (5-0-0-0) WITH THE FOLLOWING VOTE:

AYES: UNANIMOUS; NOES: NONE; ABSTAIN: NONE; ABSENT: NONE.

D)ELBA-11-03:
MONTEREY-
DYNASTY:

Linder presented her report. The project is at step one and is just getting started with the CEQA. The initial review states that there might be hydrological issues. It could become very long and involved. CEQA could take 18 months to get through.

Moniz: Is that in a flood zone?

Linder: Yes, and they're saying they have found wetlands in a couple of places.

Mueller opened the floor to public hearing.

Richard Liaw appeared on behalf of the project: There was a 3-4 month delay because the City's contract with JD Power expired. When we got a bid it was too high and we had to go find another CEQA agent, which saved us about \$25,000. We have also been working with the City on the site and have redesigned the site to fix the issues that have been identified. The rental vacancy rate in Morgan Hill is very low, so the owner is very eager to start this project.

Moniz: Have you already formed your homeowners' association?

Liou: The plan is not ready for that yet.

Tanda: Have you ever gone through the CEQA process before? The reason I ask is because it looks like you'll have to deal with the Army Corps of Engineers, etc. You'll have to be patient. It could take quite awhile.

Liou: The owner will be the builder and he is eager to start.

Mueller: What fiscal years are these for?

Linder: They have 68 units for FY 2010/11 and 31 units for FY 11/12. They are asking for a 12 month extension but we're recommending 18 months for the first 68 and 12 months for the remaining 31.

Mueller: The extenuating circumstance would be the extended CEQA review.

COMMISSIONERS TANDA AND MONIZ MOTIONED TO APPROVE THE EXCEPTION TO LOSS OF BUILDING ALLOCATIONS DUE TO AN EXTENDED CEQA REVIEW AND TO ALLOW AN 18-MONTH EXTENSION FOR 68 UNITS FOR FY 2010/11 AND A 12 MONTH EXTENSION FOR 31 UNITS FOR FY 2011/12.

THE MOTION PASSED (5-0-0-0) WITH THE FOLLOWING VOTE:

AYES: UNANIMOUS; NOES: NONE; ABSTAIN: NONE; ABSENT: NONE.

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m) ELBA-10-14:
EAST DUNNE
-SO. VALLEY
DEVELOPERS:

Linder presented her report: The project is at step 0. It is staff's position that applicant's proposal would require a General Plan and Zoning Amendment to implement and that it is inconsistent with the Downtown Plan.

Mueller opened the floor to public comment.

Scott Schilling appeared on behalf of the project. Currently, this is a unique CCR zoning specific to this site. It has a density of about 8 to 18 units per acre, which is atypical of other downtown zoning. The R1 4,500 will not work on this site. I would like to ask that this be scheduled for a short study session so that the applicant can present the project and answer questions.

Mueller: The only thing we have to hang our hats on is 1) your previous company's unfortunate circumstance, 2) you now have a buyer that is self-financed, and 3) that buyer is proposing a new project. Are you suggesting that you don't need a General Plan Change?

Schilling: We would like direction from staff. Our preference is that this would be reviewed under the current zoning.

Mueller: We need a time schedule to move forward.

Schilling: That's why I think we need a study session, and then set some sort of schedule.

Rowe: We have advised City Ventures on the procedure for going before the Planning Commission with their proposal for 36 units. We have consulted with the Assistant City Manager, the City Attorney, our Interim Community Development Director and Planning Staff. We are all in agreement that this is inconsistent with the General Plan and the City's downtown specific plan.

Schilling: This project is not in the Downtown Specific Plan.

Tanda: It sounds like the project that you're asking us to consider is somewhat different than the one we approved for allocations?

Schilling: Yes.

Tanda: How does that work?

Linder: When we've been faced with this situation in the past, the new project has to meet the same commitments and maintain the same point score in each of the scoring categories.

Tanda: Has that been done before?

Linder: It is been done before, but not on this particular project. They have yet to submit anything.

Rowe: You already voted on March 8 to extend the allocations. You simply

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wanted to memorialize the extension in a resolution, and that's what we're doing tonight.

Mueller: What I'm looking for and I think Council will be looking for also is a plan of action. But we don't allow for a General Plan Amendment at this point in the process.

Benich: To me, this is a whole new project that would need to come back and compete again.

Mueller: We are not deciding on that tonight. We need to decide if it's worthwhile to extend the allocations to give us time to evaluate their position. If we take the position that there is a new developer and that they're proposing a new project, Scott, when could you submit a conceptual plan review?

Schilling: Could we have six to eight weeks?

Moniz: What would the application have to include?

Rowe: It would have to be a sufficient level of information to determine if the project would score the same amount of points.

Mueller: So we could set a deadline for June 30, 2011 to submit an application and then be through the Planning Commission action by Sept. 30, 2011.

Tanda: As I understood it, this project had direction from City Council already.

Linder: No, that was the W. Dunne Avenue project. It went directly to Council and was given an 18 month extension with some established deadlines.

John Telfer appeared on behalf of the project: The reason City Ventures asked for an informal session was to get some direction. We think the City needs to hear the proposal and then make a decision based on that.

Mueller: Would it be reasonable to have them file for a preliminary conceptual review?

Linder: Yes, and that would get staff comments and Planning Commission review.

Koepp-Baker: At least it would answer if they could put a product on that site that meets our old downtown density.

Rowe: The Downtown General Plan increased the density in CCR from 8-18 units to 8-20 units per acre. This would come in at about 10.5 units per acre.

Tanda: If we do this preview of this new product, would that be a prelude to a General Plan Amendment.

Rowe: Yes.

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Tanda: When we approved this for an extension in March, I failed to understand that we were extending allocations for a product that was different than what was originally submitted. How do we deal with that?

Mueller: We have not been faced with this circumstance before, with this magnitude of a potential change, so what staff is proposing is the only way to address this big of a potential change. The only reason to extend allocations is that they haven't asked for extensions before and they also have a buyer who is self-funded who is interested in the project.

Koepp-Baker: You said it has 10.5 units per acre?

Mueller: Yes, but we have a bigger issue in that it needs to meet the same RDCS criteria.

Koepp-Baker: It seems if we already have allocations, we now have a new buyer and a new product, then we should look at a way to review it.

COMMISSIONERS MONIZ AND KOEPP-BAKER MOTIONED TO APPROVE THE EXCEPTION TO LOSS OF BUILDING ALLOCATIONS CONTINGENT UPON FILING A PRELIMINARY REVIEW APPLICATION BY JUNE 30, 2011 WITH STAFF FEEDBACK DUE BY SEPT. 30, 2011

Tanda: It seems we should include language that states that whatever product they submit needs to meet or exceed the same points already awarded.

Mueller: That's already a requirement built into the RDCS competition.

Benich: I feel this is such a different product than what they originally competed for, that maybe we shouldn't even consider the extension.

Mueller: But if we don't extend it tonight, the project dies. It completely goes away.

Benich: I understand that.

Rowe: We have had precedent with other projects, such as E. Central-UCP that have transformed from one product type to another during the process.

Tanda: That's why I feel we need to state in the Resolution that any new product type needs to meet the same RDCS criteria and points.

Commissioner Moniz amended the motion.

COMMISSIONERS MONIZ AND KOEPP-BAKER MOTIONED TO APPROVE THE EXCEPTION TO LOSS OF BUILDING ALLOCATIONS CONTINGENT UPON FILING A PRELIMINARY REVIEW APPLICATION BY JUNE 30, 2011 WITH STAFF FEEDBACK DUE BY SEPT. 30, 2011 AND SUBJECT TO CONFORMING TO RDCS POLICY

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AND CODE

Tanda: I could support that. I am just concerned that we don't encourage projects to do the old bait-and-switch after getting awarded the project.

Mueller: We had another project tonight that transformed during the process. The Borello project is not even close to what was originally submitted. We either need to extend the allocations or we need to decide that the project is so bad that they need to come back to re-complete. But at least they have a developer that is willing to do something in the downtown area.

Tanda: We are setting a big of a precedent here tonight, because those other projects didn't require a General Plan Amendment.

Mueller: That's right.

THE MOTION PASSED (4-1-0-0) WITH THE FOLLOWING VOTE:

AYES: KOEPP-BAKER, MONIZ, MUELLER AND TANDA;

NOES: BENICH;

ABSTAIN: NONE;

ABSENT: NONE.

OTHER BUSINESS:

4) RESIDENTIAL DEVELOPMENT CONTROL SYSTEM (RDSCS) FOURTH QUARTERLY REPORT FOR 2010:

Rowe presented his staff report.

Tanda: I do note that we now have 1,523 outstanding units.

Rowe: Correct, this report adds in the new units that were awarded in February 2011.

Tanda: When we have so many outstanding, will we continue to allocate more and is this something that will be discussing in the future prior to City Council setting any deadlines?

Mueller: Yes, because we are required to hold competitions. The only thing we can do is take allocations away based on the viability of the project.

Rowe: We would need to have a school district wide double session or a sewer moratorium or some sort of emergency situation to allow the City Council to suspend holding competitions.

Mueller: The only other thing we can do is put pressure on projects that are not performing and take some allocations away. Also, we could have a fairly high building rate over the next year if the market holds.

Tanda: Can we schedule a time not on the agenda, to better understand the market and the RDSCS status?

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Mueller: I would also like to recommend that developers that were not here tonight be encouraged to attend when they have items on the agenda.

COMMISSIONERS MONIZ AND KOEPP-BAKER MOTIONED TO APPROVE THE RDCS QUARTERLY REPORT AND FORWARD IT TO CITY COUNCIL

**THE MOTION PASSED (5-0-0-0) WITH THE FOLLOWING VOTE:
AYES: UNANIMOUS; NOES: NONE; ABSTAIN: NONE; ABSENT: NONE.**

**ANNOUNCEMENTS /
COMMISSIONER
IDENTIFIED ISSUES**

None.

**CITY COUNCIL
REPORTS**

None.

ADJOURNMENT

Noting that there was no further business for the Planning Commission at this meeting, Chair Mueller adjourned the meeting at 11.59 p.m.

MINUTES RECORDED AND TRANSCRIBED BY:

ELIZABETH BASSETT, Development Services Technician